

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of
Christopher J. Hartley, D.C.
License No. 3755

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson on October 23, 2006, at 1:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Stephen B. Masten, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, appeared on behalf of the Complaint Panel of the Board of Chiropractic Examiners ("the Board"). There was no appearance by or on behalf of the Respondent, Christopher J. Hartley, D.C., who was served at 2015 – 41st Street N.W., #H1, Rochester, Minnesota 55901, and at 1744 Fourth Avenue S.W., Rochester, Minnesota 55902. The OAH record closed upon receipt of a letter from counsel for the Board on October 26, 2006.

STATEMENT OF ISSUES

The issues presented in this case are whether the Respondent, Christopher J. Harley, D.C., failed to properly diagnose a patient's injury, charged the patient excessive fees, failed to provide her with a detailed statement, continued to treat the patient without notifying her that her insurance benefits had been exhausted, and then billed her; whether the Respondent failed to submit complete records to the Board despite repeated requests for such records by the Board during 2004 and 2005, after the patient filed a complaint; whether the Respondent was convicted in 2005 of one felony count of conspiracy to import anabolic steroids and was sentenced to three years' probation and a \$500 fine; and whether the Respondent failed to submit a response to the Board or attend a Board conference on June 20, 2006; and, if so, whether the Respondent has been convicted of a crime involving moral turpitude or a felony reasonably related to the practice of chiropractic in violation of Minn. Stat. § 148.10, subd. 1(a)(4) and (5); violated the statutes or rules of the Board in violation of Minn. Stat. § 148.10, subd. 1(a)(10); engaged in unprofessional conduct in violation of Minn. Stat. § 148.10, subds. 1(a)(11) and 1(e); improperly managed health records in violation of Minn. Stat. § 148.10, subd. 1(a)(4); failed to make reports or cooperate with an investigation of the Board in violation of Minn. Stat. §§ 148.10, subd. 1(a)(15), 148.102, subds. 2 and 5, and 148.104; and failed to keep written chiropractic records justifying the course of treatment in violation of Minn. Stat. § 148.10, subd. 1(a)(18), and Minn. R. 2500.5000. The further issue presented in this case is whether disciplinary

action or civil penalties should be imposed against the Respondent or other action authorized by Minn. Stat. § 148.10 should be taken.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice and Order for Prehearing Conference and Hearing ("Notice of Hearing") initiating this contested case proceeding was served on the Respondent, Christopher J. Hartley, D.C., via first class mail on September 18, 2006, at the following addresses, which are his last known addresses on file with the Board: 2015 41st St. NW #H1, Rochester, MN 55901, and 1744 Fourth Ave. SW, Rochester, MN 55902.^[1] The service of the Notice of Hearing was not returned by the postal service, nor was there any other indication that the Respondent did not receive it.^[2]

2. The Notice of Hearing contained the following language:

Respondent's failure to appear at the prehearing conference, settlement conference, or hearing may result in a finding that Respondent is in default, that the allegations contained in this Notice and Order for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.^[3]

3. The Notice of Hearing set a prehearing conference for October 23, 2006, at 1:30 p.m.^[4]

4. The Respondent did not file a notice of appearance in this matter, and no one appeared at the prehearing conference on October 23, 2006, on behalf of the Respondent. The Respondent did not make any request prior to the October 23, 2006, prehearing conference for a continuance or any other relief.

5. Because the Respondent failed to appear at the prehearing conference in this matter, he is in default.

6. Pursuant to Minn. Rules part 1400.6000 (2005), the allegations contained in the Notice of Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board of Chiropractic Examiners have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 148.10, and 214.103 (2004).

2. The Notice of Hearing issued by the Board was proper and the Board has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the prehearing conference, and not requesting any continuance or relief, is in default. Pursuant to Minn. Rules part 1400.6000 (2005), the allegations contained in the Notice of Hearing are hereby taken as true.

4. By failing to properly diagnose a patient's injury or provide her with a detailed statement, charging a patient excessive fees, continuing to treat a patient without notifying her that her insurance benefits had been exhausted, and then billing her; failing to submit complete records to the Board during 2004 and 2005 despite repeated requests for such records by the Board; being convicted in 2005 of one felony count of conspiracy to import anabolic steroids and being sentenced to three years' probation and a \$500 fine; and failing to submit a response to the Board or attend a Board conference on June 20, 2006, the Respondent has been convicted of a crime involving moral turpitude or a felony reasonably related to the practice of chiropractic in violation of Minn. Stat. § 148.10, subd. 1(a)(4) and (5); violated the statutes or rules of the Board in violation of Minn. Stat. § 148.10, subd. 1(a)(10); engaged in unprofessional conduct in violation of Minn. Stat. § 148.10, subds. 1(a)(11) and 1(e); improperly managed health records in violation of Minn. Stat. § 148.10, subd. 1(a)(4); failed to make reports or cooperate with an investigation of the Board in violation of Minn. Stat. §§ 148.10, subd. 1(a)(15), 148.102, subds. 2 and 5, and 148.104; and failed to keep written chiropractic records justifying the course of treatment in violation of Minn. Stat. § 148.10, subd. 1(a)(18) (2004), and Minn. R. 2500.5000 (2005).

5. The Respondent is subject to discipline and/or a civil penalty pursuant to Minn. Stat. §§ 148.10 (2004). The imposition of sanctions is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Board of Chiropractic Examiners impose discipline and/or an appropriate civil penalty against the Respondent, Christopher J. Hartley, D.C.

Dated: November 22, 2006

s/Barbara L. Neilson

BARBARA L. NEILSON

Administrative Law Judge

Reported: Default.

NOTICE

This Report is a recommendation, not a final decision. The Board of Chiropractic Examiners will make the final decision after a review of the record. The Board may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days.

An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact the Larry A. Spicer, D.C., Executive Director, Board of Chiropractic Examiners, 2829 University Avenue, S.E., Suite 300, Minneapolis, MN 55414-3220, Telephone: (651) 201-2850, to obtain further information about how to file exceptions or present argument. Pursuant to Minn. Stat. § 14.62, subd. 1, the Agency is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail or as otherwise provided by law.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Board must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

^[1] Affidavit of Service by U.S. Mail of Tammie L. Reeves attached to Notice of Hearing.

^[2] October 25, 2006, letter from counsel for the Board.

^[3] Notice of Hearing, p. 3.

^[4] Notice of Hearing, p. 1.